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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,753	08/24/2001	Rudolf Wilhelm Gunnerman	CFT-011	7427

7590

07/03/2002

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EXAMINER

MEDLEY, MARGARET B

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 07/03/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,753

Applicant(s)

GUNNERMAN, RUDOLF
WILHELM

Examiner

Margaret B. Medley

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

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DETAILED ACTION

Claims 1-12 are objected to because of the following informalities: The term "novel" should be deleted because the claim have not been determined to be novel. Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenzel et al (Wenzel) 4,083,698 in view of Nixon 3,615,290 and Jahnke 5,920,031.

Wenzel teaches and discloses water in oil emulsions comprising diesel fuel, water, ammonium hydroxide, mixture of fatty acids, an alcohol and ketone, column 3, lines 1-15 and 21 to column 4, lines 1-5, for the percentage of water and alcohol,

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column 5, lines 62-65, for the percentage of emulsifier column 5, line 66 to column 6, lines 1-10, Table 1 of column 8 for Emersol 305 linoleic acid as mixture of fatty acids, Emery 610, Soya fatty acid as well as Emery 621, 651, Emersol 140 Palmitic acid and Emtall 729 distilled tall oil, and Example XIV of columns 26 and 27. Patentee further teaches diesel fuel composition comprising the said additives. It is the examiner's position that the energy is extracted from the fuel composition of Wenzel by combusting the fuel with air. Patentee discloses that the fuel composition is used as a diesel fuel providing the motivation to extract the energy from the fuel by combusting the fuel with air rendering the method claims obvious in view of the teachings of Nixon and Jahnke.

Wenzel is silent to teachings to teachings to a polyanhydride. Nixon teaches a stable of water-oil emulsion comprising hydrocarbon, e.g., diesel column 4, lines 14-26, water, emulsifier, a solvent, ammonium hydroxide, and a C4-C30 alkyl or alkenyl substituted succinic anhydride as a corrosion inhibitor, abstract, column 8, lines 13-14 and 18-27, Example 5 of the Table of columns 9 and 10, the examples of columns 11 and the claims. Jahnke teaches water in oil emulsions comprising an ammonium salt of polyisobutene succinic anhydride, abstract, column 16, line 59-65, examples 1-10 of columns 17-19.

It would be obvious to the artisan in the art to add the ammonium salt of polyisobutene succinic of the secondary references to the composition and the method of the primary reference with the reasonable expectation that it will provide the same emulsifying and anti-corrosion properties to the water in oil or oil in-water as the mixture

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of ammonium hydroxide and alkenyl substituted succinic anhydride. It is the examiner's position that the said mixture of ammonium hydroxide and alkenyl substituted succinic anhydride inherently will produce ammonium alkyl succinic anhydride the same additive of the instant claims rendering the instant claims obvious.

The prior art cited but not applied further teaches emulsions of fuel and water comprising additives of the same nature as claimed by applicants.

Any inquiry concerning this communication from the examiner should be directed to Margaret B. Medley whose telephone number is (703) 308-2518. The examiner can generally be reached on Monday--Friday from 7:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 308-2777 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0666.

M.B. Medley/dh
July 2, 2002


MARGARET MEDLEY
PRIMARY EXAMINER